

REMARKS

The Final Office Action mailed on January 23, 2009 has been reviewed and the comments of the Examiner carefully considered. Claims 1-5 and 7-13 are pending and currently stand rejected. Claims 1, 2, and 7 have been amended. New claims 20 and 21 have been added. Support for these amendments may be found in the originally filed claims and the specification. No new matter has been added by way of these amendments.

Rejections under 35 U.S.C. § 112

Claim 7 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. More specifically, the Examiner stated that there is insufficient antecedent basis for the limitation “the salt complex” in claim 7. As herein amended, claim 7 recites:

“A wound dressing material according to claim 1, wherein the ~~salt complex~~ silver salt comprises from about 0.01 wt. % to about 5 wt. % of silver, based on the dry weight of the composition.”

Applicants respectfully request withdrawal of the rejection of claim 7 under 35 U.S.C. § 112, second paragraph, and submit that the claim, as presently amended, is therefore in condition for allowance.

Rejections under 35 U.S.C. § 102

Claims 1-5, 7, 11, and 13 were rejected under 35 U.S.C. § 102(e) as being anticipated by Canada et al. (US 7,118,761). Regarding independent claim 1, the Examiner alleged that as the limitation “dyestuff to photostabilize the silver salt” had not been positively claimed, it was treated as an intended use recitation and therefore does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations.

Applicants submit Canada et al. does not disclose a dyestuff to photostabilize the silver salt. For the purposes of furthering prosecution only, and without any admission as to the propriety of this rejection, Applicants have herein amended claim 1 as follows:

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“A wound dressing material comprising a polymeric substrate, a silver salt which is a complex of Ag⁺ and an anionic polymer, and a dyestuff to ~~photostabilize the silver salt; wherein the dyestuff comprises a silver salt photostabilizer.~~”

Therefore, as claim 1 has been herein amended to positively claim a dyestuff comprising a silver salt photostabilizer, and as Canada et al. does not teach, suggest, or otherwise disclose this limitation, applicants respectfully reconsideration and withdrawal of this rejection under 35 U.S.C. § 102(e). Applicants respectfully submit that claim 1, as amended, is in condition for allowance, and further that claims 2-5, 7, 11, and 13 are thereby allowable as written as depending from an allowable independent claim.

Rejections under 35 U.S.C. § 103

1. Claims 8-10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Canada et al., in view of Gibbins et al. (US 6,897,349).

Applicants respectfully submit that claims 8-10 are allowable as depending from an allowable independent claim for the reasons stated above. However, for the sake of completeness, applicants submit that the rejections of claims 8-10 under 35 U.S.C. § 103(a) as being unpatentable over Canada et al. in view of Gibbins et al. are improper for the following reasons.

The Examiner alleged that the device of Gibbins et al. utilizes the dyestuff trypan blue and thus it would have been obvious to one having ordinary skill in the art at the time of the instant invention to provide the wound dressing material of Canada et al. with a dyestuff of Gibbins et al. in order to utilize an antioxidant type dye that is biocompatible. Applicants respectfully disagree with this rejection and request reconsideration and withdrawal thereof.

Gibbins et al. merely discloses methods and compositions for making a silver-containing antimicrobial hydrophilic material (*see e.g.*, Abstract). Gibbins et al. does not disclose a wound dressing material comprising in part a silver salt which is a complex of Ag⁺ and an anionic polymer, much less a wound dressing comprising a photostabilizer, and a dyestuff comprising a silver salt photostabilizer.

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Specifically, the Examiner pointed to Gibbins et al. (col. 29, lines 21-23) to indicate that the reference teaches the use of the antioxidant dye trypan blue. However, the device of Gibbins et al. does not comprise trypan blue – rather, trypan blue was merely used in a separate analytical procedure to determine the cytotoxicity of the wound dressings of Gibbins et al.:

“The viability of fibroblasts was also evaluated by parallel cultures stained with the vital dye, trypan blue... The silver-containing dressing was indistinguishable from the positive growth sample with greater than 99% of fibroblasts over the culture period... These findings are consistent with microscopic observation of cultures treated with trypan blue vital dye” (col. 29, lines 21-29).

There is no teaching, suggestion, or any disclosure in Gibbins et al. that a dye used to stain fibroblasts in viability studies is a photostabilizer, much less a silver salt photostabilizer. There is no teaching, suggestion, or any disclosure in Gibbins et al. to incorporate a dye used to stain fibroblasts in viability studies into a wound dressing material. There is no teaching, suggestion, or any disclosure in Gibbins et al. that a dye used to stain fibroblasts in viability studies is a silver salt photostabilizer that may be incorporated into a wound dressing material. Therefore, the office has offered no rationale underlying the alleged combination of Canada et al. and Gibbins et al.

Accordingly, applicants respectfully submit that Gibbins et al. does not teach, suggest, or otherwise disclose a device, much less a wound dressing, comprising a silver salt photostabilizer. Consequently, because the Examiner has failed to show, and indeed, cannot show that Gibbins et al. teaches, suggest, or otherwise discloses a device comprising a silver salt photostabilizer; and because Gibbins et al. cannot cure the deficiencies of Canada et al., applicants respectfully submit that claims 8-10 are thereby allowable as written as depending from an allowable independent claim.

2. Claim 12 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Canada et al., in view of Hirsch (US 1,962,900).

Applicants respectfully submit that 12 is allowable as depending from an allowable independent claim for the reasons stated above. However, for the sake of completeness,

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applicants submit that the rejection of 12 under 35 U.S.C. § 103(a) as being unpatentable over Canada et al. in view of Hirsch is improper for the following reasons.

Hirsch discloses a package containing some material or article such as a surgical suture, ligature, or dressing that must be maintained in a sterile condition up to the time of use (*see e.g.*, lines 1-5). Hirsch does not disclose a wound dressing material comprising in part a silver salt which is a complex of Ag⁺ and an anionic polymer, and a dyestuff that is a silver salt photostabilizer. Thus, because Hirsch cannot cure the deficiencies of Canada et al., applicants respectfully submit that claim 12 is thereby allowable as written as depending from an allowable independent claim.

Conclusion

Applicants respectfully submit that the claims are in condition for allowance. An early Notice of Allowance is therefore earnestly solicited. Applicants invite the Examiner to contact the undersigned at (215) 963-5337 to clarify any unresolved issues raised by this response.

The Director is hereby authorized to charge/credit Deposit Account No. **50-0310** (Billing No. 101713-5041) for any other required fees, deficiencies or overpayments in connection with this Response.

Respectfully submitted,

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